



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

**999 18<sup>TH</sup> STREET- SUITE 200  
DENVER, CO 80202-2466  
Phone 800-227-8917  
<http://www.epa.gov/region08>**

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EPA REGION VIII  
HEARING CLERK

Ref: 8ENF-W-NP

**CERTIFIED MAIL 7003-2260-0001-7779-1510**  
**RETURN RECEIPT REQUESTED**

APR 05 2006

Mr. Cliff Shutts  
Seven Bar Dairy, LLC  
16764 County Road 4  
Wiggins, CO 80654

RE: Closure of Administrative Order  
Seven Bar Dairy, LLC  
CWA-08-2004-0073

Dear Mr. Shutts:


On September 29, 2004, the U.S. Environmental Protection Agency ("EPA") issued an Administrative Order ("Order"), EPA Docket Number CWA-08-2004-0073, to Seven Bar Dairy, LLC ("Seven Bar Dairy"). The Order required Seven Bar Dairy to comply with the federal Concentrated Animal Feeding Operation ("CAFO") regulations found in 40 C.F.R. §122.23.

As you may already be aware, due to recent changes to CAFO regulations brought about from a U.S. Second Circuit Court of Appeals ruling on February 28, 2005, the duty to apply for an NPDES permit has been vacated. This means that now only CAFOs that discharge or propose to discharge are required to obtain NPDES permit coverage. Due to this change in the CAFO regulations, the duty to apply requirements in Order CWA 08-2004-0073 are no longer required, and we are closing the Order.

Discharges without an NPDES permit are violations of the Clean Water Act and under section 309 of the Act, may be subject to civil penalties of up to \$32,500 per day of violation. Under section 309(c)(4) of the Act, 33 USC § 1319(c)(4), criminal actions may be punishable by a fine and/or imprisonment. Discharges to waters of the U.S. without an NPDES permit are strictly prohibited.

If you proceed with an NPDES permit application, please collaborate with Erin Pease of the Colorado Department of Public Health and Environment's Environmental Ag Program at 303-692-3523. If you have any questions concerning this letter, please contact Jennifer Meints of my staff at 303-312-6334.

Sincerely,

*for*   
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

cc: Phyllis Woodford, CDPHE  
Janine Baratta, AGPROfessionals, LLC